

Union Calendar No. 399

105TH CONGRESS
2^D Session

H. R. 1659

[Report No. 105-704]

A BILL

To provide for the expeditious completion of the acquisition of private mineral interests within the Mount St. Helens National Volcanic Monument mandated by the 1982 Act that established the Monument and for other purposes.

SEPTEMBER 11, 1998

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

MAY 16, 1997

Mrs. LINDA SMITH of Washington (for herself, Mr. DICKS, Ms. DUNN, Mr. HASTINGS of Washington, and Mr. METCALF) introduced the following bill; which was referred to the Committee on Resources

SEPTEMBER 11, 1998

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[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on May 16, 1997]

A BILL

To provide for the expeditious completion of the acquisition of private mineral interests within the Mount St. Helens National Volcanic Monument mandated by the 1982 Act that established the Monument and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Mount St. Helens Na-*
3 *tional Volcanic Monument Completion Act”.*

4 **SEC. 2. FINDINGS AND PURPOSE.**

5 (a) *FINDINGS.*—*Congress finds that—*

6 (1) *the Act entitled “An Act to designate the*
7 *Mount St. Helens National Volcanic Monument in the*
8 *State of Washington, and for other purposes”, ap-*
9 *proved August 26, 1982 (96 Stat. 301; 16 U.S.C. 431*
10 *note), required the United States to acquire all land*
11 *and interests in land in the Mount St. Helens Na-*
12 *tional Volcanic Monument;*

13 (2) *the Act directed the Secretary of Agriculture*
14 *to acquire the surface interests and the mineral and*
15 *geothermal interests by separate exchanges and ex-*
16 *pressed the sense of Congress that the exchanges be*
17 *completed by November 24, 1982, and August 26,*
18 *1983, respectively; and*

19 (3) *the surface interests exchange was con-*
20 *summated timely, but the exchange of all mineral and*
21 *geothermal interests has not yet been completed a dec-*
22 *ade and a half after the Act’s enactment.*

23 (b) *PURPOSE.*—*The purpose of this Act is to provide*
24 *for the expeditious completion of the previously mandated*
25 *Federal acquisition of private mineral and geothermal in-*

1 *terests within the Mount St. Helens National Volcanic*
 2 *Monument.*

3 **SEC. 3. ACQUISITION OF MINERAL RIGHTS WITHIN THE NA-**
 4 **TIONAL VOLCANIC MONUMENT.**

5 *Section 3 of the Act entitled “An Act to designate the*
 6 *Mount St. Helens National Volcanic Monument in the State*
 7 *of Washington, and for other purposes”, approved August*
 8 *26, 1982 (96 Stat. 302; 16 U.S.C. 431 note), is amended—*

9 *(1) in subsection (a), by striking “and except*
 10 *that the Secretary may acquire mineral and geo-*
 11 *thermal interests only by exchange. It is the sense of*
 12 *the Congress that in the case of mineral and geo-*
 13 *thermal interests such exchanges should be completed*
 14 *within one year after the date of enactment of this*
 15 *Act”; and*

16 *(2) by adding at the end the following:*

17 *“(g) EXPEDITIOUS COMPLETION OF MINERAL AND*
 18 *GEOTHERMAL INTERESTS.—*

19 *“(1) DEFINITION OF HOLDER.—In this sub-*
 20 *section, the term ‘holder’ means a company, or its*
 21 *successor, referred to in subsection (c).*

22 *“(2) IN GENERAL.—Within the period described*
 23 *in paragraph (7), the Secretary of the Interior shall*
 24 *acquire by exchange the mineral and geothermal in-*
 25 *terests in the Monument of each holder.*

1 “(3) *MONETARY CREDITS.*—

2 “(A) *ISSUANCE.*—*In exchange for the min-*
3 *eral and geothermal interests acquired by the*
4 *Secretary of the Interior from a holder under*
5 *paragraph (2), the Secretary of the Interior shall*
6 *issue to the holder monetary credits that may be*
7 *exercised by the holder for payment of—*

8 “(i) *not more than 50 percent of the*
9 *bonus or other payments made by successful*
10 *bidders in any sales of mineral, oil, gas, or*
11 *geothermal leases under the Mineral Leasing*
12 *Act (30 U.S.C. 181 et seq.), the Outer Con-*
13 *tinental Shelf Lands Act (43 U.S.C. 1331 et*
14 *seq.), or the Geothermal Steam Act of 1970*
15 *(30 U.S.C. 1001 et seq.); or*

16 “(ii) *not more than 50 percent of any*
17 *royalty, rental, or advance royalty payment*
18 *made to the United States to maintain any*
19 *mineral, oil or gas, or geothermal lease*
20 *issued under the Acts listed in clause (i).*

21 “(B) *VALUE OF CREDITS.*—*The credits*
22 *issued under subparagraph (A) shall equal the*
23 *fair market value of all mineral and geothermal*
24 *interests conveyed in the exchange as determined*
25 *under paragraph (4).*

1 “(C) *ACCEPTANCE OF CREDITS.*—*The Sec-*
2 *retary of the Interior shall accept credits issued*
3 *under subparagraph (A) in the same manner as*
4 *cash for the payments described in subparagraph*
5 *(A). The use and exercise of the credits shall be*
6 *subject to the laws (including regulations) gov-*
7 *erning such payments, to the extent the laws are*
8 *consistent with this subsection.*

9 “(D) *TREATMENT OF CREDITS FOR DIS-*
10 *TRIBUTION TO STATES.*—*All amounts in the*
11 *form of credits accepted by the Secretary of the*
12 *Interior under subparagraph (C) for the pay-*
13 *ments described in subparagraph (A) shall be*
14 *considered to be money received for the purpose*
15 *of section 35 of the Mineral Leasing Act (30*
16 *U.S.C. 191) and section 20 of the Geothermal*
17 *Steam Act of 1970 (30 U.S.C. 1019).*

18 “(4) *VALUATION OF INTERESTS.*—

19 “(A) *IN GENERAL.*—*Not later than 120*
20 *days after the date of enactment of this sub-*
21 *section, the mineral and geothermal interests to*
22 *be conveyed by each holder in the exchanges re-*
23 *quired by paragraph (2) shall be valued by one*
24 *of the following methods, as selected by the Sec-*
25 *retary of the Interior:*

1 “(i) *USE OF APPRAISAL REPORT.*—*The*
2 *1982 value established by the report of the*
3 *third party appraisal completed on Septem-*
4 *ber 11, 1991, shall be adjusted to reflect*
5 *changes in the consumer price index for all*
6 *urban consumers published by the Depart-*
7 *ment of Labor as of the date on which the*
8 *exchange is to be consummated pursuant to*
9 *paragraph (7), or such other value as shall*
10 *be mutually agreed to by the Secretary of*
11 *the Interior and the holders not later than*
12 *30 days after the date of enactment of this*
13 *subsection.*

14 “(ii) *NEW APPRAISAL.*—

15 “(I) *SELECTION OF APPRAISER.*—
16 *Not later than 30 days after the date*
17 *of enactment of this subsection, the*
18 *Secretary of the Interior and the hold-*
19 *ers shall mutually agree on the selec-*
20 *tion of a qualified appraiser to conduct*
21 *an appraisal of the mineral and geo-*
22 *thermal interests.*

23 “(II) *NO AGREEMENT ON AP-*
24 *PRAISER.*—*If no appraiser is mutually*
25 *agreed to under subclause (I), not later*

1 *than 60 days after the date of enact-*
2 *ment of this subsection—*

3 *“(aa) the Secretary of the In-*
4 *terior and the holders shall each*
5 *designate a qualified appraiser;*
6 *and*

7 *“(bb) the two designated ap-*
8 *praisers shall select a third quali-*
9 *fied appraiser to perform the ap-*
10 *praisal with the advice and assist-*
11 *ance of the designated appraisers*
12 *and in accordance with the in-*
13 *structions that were mutually*
14 *agreed on for the September 11,*
15 *1991, third part appraisal.*

16 *“(III) DATE OF VALUATION.—The*
17 *value of the mineral and geothermal*
18 *interests to be conveyed by each holder*
19 *shall be calculated as of August 26,*
20 *1982, adjusted to reflect changes in the*
21 *consumer price index for all urban*
22 *consumers published by the Depart-*
23 *ment of Labor as of the date on which*
24 *the exchange is to be consummated*
25 *pursuant to paragraph (7).*

1 “(IV) *COSTS.*—*The Secretary of*
2 *the Interior shall bear the costs of the*
3 *process established by this clause.*

4 “(B) *TIMELY APPRAISAL REPORT.*—*The ap-*
5 *praisal report resulting from subparagraph (A)*
6 *shall be presented to the Secretary of the Interior*
7 *timely to permit the Secretary of the Interior to*
8 *determine the value of the mineral and geo-*
9 *thermal interests to be conveyed by each holder.*
10 *Not later than the date that is 180 days after the*
11 *date of enactment of this subsection, the Sec-*
12 *retary of the Interior shall notify each holder of*
13 *the determination.*

14 “(C) *FAILURE OF PROCESS.*—*If the Sec-*
15 *retary of the Interior fails to make a determina-*
16 *tion under subparagraph (B) by the date that is*
17 *180 days after the date of enactment of this sub-*
18 *section or if any holder does not agree with the*
19 *value determined by the Secretary of the Interior*
20 *under subparagraph (B), one or more of the*
21 *holders may petition the United States Court of*
22 *Federal Claims for a determination of the value*
23 *of the mineral and geothermal interests to be*
24 *conveyed by the holders in accordance with this*
25 *subsection. Subject to the right of appeal, a de-*

1 *termination by the Court shall be binding for*
2 *purposes of this subsection on all parties.*

3 “(5) *EXCHANGE ACCOUNT.*—

4 “(A) *IN GENERAL.*—Notwithstanding any
5 *other provision of law, not later than 30 days*
6 *after the completion of each exchange with a*
7 *holder required by this subsection, the Secretary*
8 *of the Interior shall establish, with the Minerals*
9 *Management Service of the Department of the*
10 *Interior, an exchange account for the holder for*
11 *monetary credits described in paragraph (3).*

12 “(B) *INITIAL BALANCE.*—The initial bal-
13 *ance of credits in each holder’s account shall be*
14 *equal to the value as determined under para-*
15 *graph (4) of the mineral and geothermal inter-*
16 *ests conveyed by the holder in the exchange.*

17 “(C) *USE OF CREDITS.*—The balance of
18 *credits in a holder’s account shall be available to*
19 *the holder or its assigns for the purposes of para-*
20 *graph (3). The Secretary of the Interior shall ad-*
21 *just the balance of credits in the account to re-*
22 *fect payments made pursuant to paragraph (3).*

23 “(D) *TRANSFER OF CREDITS.*—

1 “(i) *IN GENERAL.*—A holder may
2 transfer or sell any credits in the holder’s
3 account to another person.

4 “(ii) *USE OF TRANSFERRED CRED-*
5 *ITS.*—Credits transferred under clause (i)
6 may be used in accordance with this sub-
7 section only by a person that is qualified to
8 bid on, or that holds, a mineral, oil, or gas
9 lease under the Mineral Leasing Act (30
10 U.S.C. 181 et seq.), the Outer Continental
11 Shelf Lands Act (43 U.S.C. 1331 et seq.), or
12 the Geothermal Steam Act of 1970 (30
13 U.S.C. 1001 et seq.).

14 “(iii) *NOTIFICATION.*—A holder shall
15 notify the Secretary of the Interior of any
16 transfer or sale under this subparagraph
17 promptly after the transfer or sale.

18 “(E) *TIME LIMIT ON USE OF CREDITS.*—On
19 the date that is 5 years after an account is cre-
20 ated under subparagraph (A), the Secretary of
21 the Interior shall terminate the account and any
22 remaining credits in the account shall become
23 unusable.

24 “(6) *TITLE TO INTERESTS.*—On the date of the
25 establishment of an exchange account for a holder

1 *under paragraph (5)(A), title to any mineral and*
2 *geothermal interests that are held by the holder and*
3 *are to be acquired by the Secretary of the Interior*
4 *under paragraph (2) shall transfer to the United*
5 *States.*

6 “(7) *COMPLETION OF EXCHANGES.—The Sec-*
7 *retary of the Interior shall complete the exchanges*
8 *under paragraph (2) not later than 180 days after the*
9 *date of enactment of this subsection or as soon as*
10 *practicable after completion of the process described*
11 *in paragraph (4)(C).”.*